REMARKS

Claim rejections under 35 USC 112

Claims 14-18 have been rejected under 35 USC 112, second paragraph, as being indefinite. In particular, various terms in claims 14-18 lack antecedent basis. Applicant has amended these claims so that they now have proper antecedent basis, and requests that the rejection be withdrawn.

Claim rejections under 35 USC 102

Claims 1-2, 8-14, and 19-20 have been rejected under 35 USC 102(e) as being anticipated by Budge (6,564,248). Claims 1, 12, and 19 are independent claims, from which the remaining claims ultimately depend. Applicant asserts that Budge does not anticipate claims 1, 12, and 19, such that the remaining claims are patentable for at least the same reasons.

Applicant has amended claims 1, 12, and 19 to better clarify their subject invention. In particular, it has been made clear that the audio or video program is *separate from* the application program. That is, the audio or video program is not the same program as the application program is. Rather, the audio or video program is a different, or separate, program from the application program. The claimed invention of claims 1, 12, and 19 is also limited to an audio or video program that is *integrated with* an application program. For instance, in claim 1, "a user of the application program interacts with the audio or video program as though the audio or video program were part of the application program." Applicant submits that Budge does not teach *integration* of an audio or video program with a *separate* application program as to which claims 1, 12, and 19 are limited.

Budge teaches video email software 50 in FIG. 1 that is detailed in FIG. 2B as containing an email client program 270 and a video email recorder program 210. (I.e., FIG. 2B shows the software environment within which the video email software "resides." (Col. 2, ll. 45-46)) The

video email recorder program 210 is the computer program in Budge that receives "video message data" and "audio message data" to create a video email. (Col. 4, ll. 36-38) "The video e-mail recorder [program] 210 also executes the Email client [program] 270 and passes the video e-mail file to the Email client [program] 270." (Col. 4, ll. 41-43)

First way of looking at Budge

There are two ways of looking at Budge relative to the claimed invention. First, as the Examiner did in the office action, the video email software 50 of FIG. 1 of Budge may be equated to the application program of the claimed invention. However, equating the video email software 50 as a whole to the application program of the claimed invention leaves nothing in Budge to read on the audio or video program of the claimed invention; the *only* software disclosed in Budge is the video email software 50.

More specifically, the claimed invention claims the application program being *separate from* the audio or video program. If the video email software 50 of Budge is the application program, there is no other software disclosed in Budge that is *separate from* the video email software 50 that could be the audio or video program of the claimed invention. For instance, because the email client program 270 and the video email recorder program 210 are both parts of the video email software 50, neither of these programs could be the audio or video program of the claimed invention, because they are *part of* the video email software 50, not *separate from* the video email software 50.

Second way of looking at Budge

Second, the video e-mail recorder program 210 of Budge can be considered as comparable to the audio or video program of the claimed invention, and the email client program 270 of Budge can be considered as comparable to the application program of the claimed invention. However, the video e-mail recorder program 210 is *not integrated with* the email client

program 270 in Budge. For example, Budge does not, as in claim 1, have "a user of the application program interact[ing] with the audio or video program as though the audio or video program were part of the application program." Rather, a video email is created with the video email recorder program 210, and the program 210 then executes the email client program 270 to send the email. The programs 210 and 270 are never integrated.

More significantly, FIG. 6 of Budge shows the graphical user interface (GUI) of *just* the video e-mail recorder program 210. The user does not interact with the GUI of the video e-mail recorder program 210 as though the program 210 were part of the email client program 270. The GUI of FIG. 6 is particular to the video e-mail recorder program 210 and is not integrated with the GUI of the email client program 270; the GUI of the email client program 270 is indeed never depicted in Budge. A user of the email client program 270 does not interact with the video email recorder program 210 as though the program 210 were part of the email client program 270. Rather, the user interacts *just with* the video email recorder program 210, period. Once the video email has been created, the recorder program 210 then *executes* the email client program 270 and passes the video email to the email client program 270. (Col. 4, ll. 41-43)

In summary, either way Budge is examined relative to the claimed invention, it does not anticipate the claimed invention. First, if Budge's video email software 50 is considered the application program of the claimed invention, then there is nothing to consider as the video or audio program of the claimed invention, since the video or audio program of the claimed invention is *separate from* the application program. Budge thus does not anticipate the claimed invention in this first way of looking at Budge. Second, if Budge's email recorder program 210 is considered the video or audio program and Budge's email client program 270 is considered the application program, then Budge still does not anticipate the claimed invention, because the program 210 in Budge is not *integrated with* the program 270 in Budge.

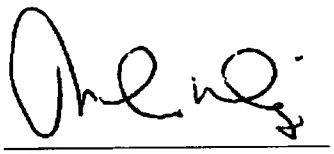
Claim rejections under 35 USC 103

Claims 3-7 and 15-18 have been rejected under 35 USC 103(a) as being unpatentable over Budge in view of Poreh (5,889,518). Claims 3-7 and 15-18 are dependent claims, ultimately depending from the independent claims discussed above. Therefore, they are patentable for at least the same reasons that the independent claims are patentable.

Conclusion

Applicant has made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Michael Dryja, Applicant's Attorney, at 425-427-5094, so that such issues may be resolved as expeditiously as possible. For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



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